

8 (14) consecutive days shall not be affected by any provision of this  
 9 chapter except that such parks shall be subject to routine inspection  
 10 by the state health department or a designee thereof. Upon routine  
 11 inspections by the state health department or its designee, the inspect-  
 12 ing officer shall make a report of his findings and recommendations in  
 13 writing and submit such report to the agency or department of the  
 14 state responsible for operation of the park."

1 SEC. 2. Section one hundred eleven point forty-nine (111.49),  
 2 Code 1966, is hereby amended by striking from line one (1) the word  
 3 "person" and inserting in lieu thereof the words "camping unit".

Approved June 12, 1967.

## CHAPTER 162

### AIR POLLUTION CONTROL

H. F. 480

AN ACT providing for the preservation and improvement of the air quality of the state; creating and delegating authority for an air pollution control program and related activities to an air pollution control commission; authorizing political subdivisions to conduct certain air pollution control activities, and making an appropriation therefor.

WHEREAS, it is hereby declared to be the public policy of this state to achieve and maintain reasonable levels of air quality, and to prevent the discharge of air contaminants into the outside atmosphere which will cause air pollution and create a public nuisance; and

WHEREAS, it is the intent and purpose of this Act to maintain purity of the air resources of the state consistent with the protection of the normal health and physical property of the state, maximum employment, and the full industrial development of the state; and

WHEREAS, it also is the purpose of this Act to provide for a coordinated statewide program of air pollution prevention, abatement and control, for an appropriate distribution of responsibilities among the state and political subdivisions, for the procedures for cooperation across jurisdictional lines in dealing with problems of air pollution not confined within single jurisdictions, and for a framework within which all values may be balanced for the public interest; and,

WHEREAS, the commission hereby established shall seek the accomplishment of these objectives through the prevention, abatement, and control of air pollution by practicable and reasonable methods; NOW, THEREFORE,

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. This Act shall be known as the "Iowa Air Pollution  
 2 Control Act".

1 SEC. 2. When used in this Act, unless the context otherwise re-  
 2 quires:

- 3 1. "Air contaminant" means dust, fume, mist, smoke, other par-  
4 ticulate matter, gas, vapor (except water vapor), odorous substance,  
5 or any combination thereof.
- 6 2. "Air contaminant source" means any and all sources of emission  
7 of air contaminants whether privately or publicly owned or operated.
- 8 a. Air contaminant source includes, but is not limited to, all types  
9 of businesses, commercial and industrial plants, works, shops, and  
10 stores, heating and power plants and stations, buildings and other  
11 structures of all types including single and multiple family resi-  
12 dences, office buildings, hotels, restaurants, schools, hospitals,  
13 churches and other institutional buildings, automobiles, trucks, trac-  
14 tors, buses, aircraft, and other motor vehicles, garages, vending and  
15 service locations and stations, railroad locomotives, ships, boats, and  
16 other water-borne craft, portable fuel-burning equipment, indoor and  
17 outdoor incinerators of all types, refuse dumps and piles, and all  
18 stack and other chimney outlets from any of the foregoing.
- 19 3. "Air pollution" means presence in the outdoor atmosphere of  
20 one (1) or more air contaminants in sufficient quantities and of such  
21 characteristics and duration as is injurious to normal human, plant,  
22 or animal life, or to property, or which unreasonably interferes with  
23 the enjoyment of life and property.
- 24 4. "Atmosphere" means all space outside of buildings, stacks or  
25 exterior ducts.
- 26 5. "Commissioner" means the commissioner of public health.
- 27 6. "Commission" means the air pollution control commission cre-  
28 ated by this Act.
- 29 7. "Department" means the state department of health.
- 30 8. "Emission" means a release of one (1) or more air contami-  
31 nants into outside atmosphere.
- 32 9. "Technical secretary" means the technical secretary of the com-  
33 mission.
- 34 10. "Person" means an individual, partnership, copartnership, co-  
35 operative, firm, company, public or private corporation, political sub-  
36 division, agency of the state, trust, estate, joint stock company, or  
37 any other legal entity, or their legal representative, agent or assigns.
- 38 11. "Political subdivision" means any municipality, township, or  
39 county, or district, or authority, or any portion, or combination of  
40 two (2) or more thereof.

1 SEC. 3. There is hereby created and established the Iowa air pol-  
2 lution control commission. The commission is established within the  
3 department of health to perform the functions specified for it in this  
4 Act.

5 1. The commission shall consist of the commissioner of public  
6 health and eight (8) additional members having competence appro-  
7 priate to service in the field of air pollution, to be appointed by the  
8 governor. One (1) member shall be a registered professional engi-  
9 neer as defined in section one hundred fourteen point two (114.2) of  
10 the Code. One (1) member shall be a physician licensed in compli-  
11 ance with section one hundred forty-eight point three (148.3) of the  
12 Code who shall be experienced in the field of industrial medicine.  
13 One (1) member shall be actively engaged in the management of a  
14 private manufacturing concern. One (1) member shall be selected

15 from individuals representative of a field directly related to the con-  
16 servation of natural resources or agriculture. One (1) member shall  
17 be representative of labor. One (1) member shall be engaged in or  
18 be a representative of a political subdivision government or urban  
19 or regional planning commission. Two (2) members shall be selected  
20 at large.

21 2. Members appointed to the commission shall serve for terms of  
22 four (4) years, except when appointed to fill an unexpired term, and  
23 until appointment of their successors, except that the terms of those  
24 first appointed shall be as designated by the governor at the time of  
25 appointment as follows:

26 a. Four (4) members shall serve from the date of appointment  
27 until June 30, 1969. Four (4) members shall serve from the date of  
28 appointment until June 30, 1971.

29 b. If a vacancy occurs in the appointed membership, the governor  
30 shall appoint a member for the remaining portion of the unexpired  
31 term created by the vacancy. The governor may remove any ap-  
32 pointed member for cause.

33 3. The members of the commission shall receive no compensation  
34 for their services, but shall be reimbursed for travel and other ex-  
35 penses necessarily incurred in the performance of their duties.

36 4. The commission shall hold at least four (4) regular meetings  
37 each calendar year at a place and time to be fixed by the commission.  
38 Special meetings may be called by the chairman or by four (4) mem-  
39 bers of the commission upon delivery of written notice to the office  
40 of each member of the commission. Any five members present at any  
41 regular or special meeting shall constitute a quorum.

42 5. Except as otherwise specified in this Act, at least a quorum must  
43 be present at any meeting to validate any action taken by the commis-  
44 sion at such meeting, and a majority of members present shall deter-  
45 mine issues; provided, however, that any rule or regulation or amend-  
46 ment or repeal thereof shall not be deemed operative until it shall  
47 have been approved in writing by at least five members of the com-  
48 mission.

49 6. The commission shall select at its first meeting one (1) of its  
50 members to serve as chairman, and another of its members to serve  
51 as vice-chairman. At the first regular meeting in each calendar year  
52 thereafter, a chairman and a vice-chairman for the ensuing year shall  
53 be elected. The department shall furnish the services of a technical  
54 secretary to the commission. The technical secretary shall be a tech-  
55 nically qualified engineer and shall receive no additional compensa-  
56 tion for such services.

1 SEC. 4. The commission is hereby given and charged with the  
2 following powers and duties:

3 1. The commission, through the department, shall have general  
4 supervision over administration and enforcement of all laws relating  
5 to air pollution.

6 2. To develop and prepare a comprehensive plan or plans for the  
7 abatement, control, and prevention of air pollution in this state, rec-  
8 ognizing varying requirements for different areas in the state.

9 3. To adopt, amend and promulgate rules and regulations pertain-  
10 ing to the evaluation, abatement, control, and prevention of air pol-

11 lution consistent with the intent and purpose of this Act after at least  
12 sixty (60) days public notice and public hearings.

13 4. To establish, repeal, or modify air quality standards for the  
14 atmosphere of this state as a whole or any part thereof on the basis  
15 of providing air quality necessary to minimize air pollution consist-  
16 ent with the purposes of this Act after at least sixty (60) days public  
17 notice and public hearings.

18 5. To establish, repeal, or modify emission standards relating to  
19 the maximum quantities of air contamination that may be emitted  
20 from any air contaminant source; and requirements for open burn-  
21 ing, including the prohibition thereof, for this state as a whole, after  
22 at least sixty (60) days public notice and public hearings.

23 6. To consider complaints of conditions reported to, or considered  
24 likely to, constitute air pollution; and instruct the department to con-  
25 duct investigations of such complaints upon receipt of the written  
26 petition of any state agency, the governing body of any political sub-  
27 division, a local board of health, or twenty-five (25) affected residents  
28 of the state.

29 7. To hold such public hearings except when the evidence to be  
30 received is confidential pursuant to section eight (8) of this Act, in  
31 addition to those otherwise required by this Act, as it may deem ad-  
32 visable and necessary to accomplish the purposes of this Act, and in  
33 connection therewith is authorized to issue subpoenas requiring the  
34 attendance of witnesses and the production of evidence pertinent to  
35 such hearings. All hearings shall be held before at least a quorum of  
36 the commission.

37 a. If any person refuses to obey a subpoena issued under this Act,  
38 the district court of the county where the proceeding is pending  
39 shall have jurisdiction, upon application of the commission, or its  
40 authorized representative, or the technical secretary, to issue to such  
41 person an order requiring him to appear and testify or produce evi-  
42 dence, and any failure to obey such order of the court may be pun-  
43 ished by said court as a contempt thereof.

44 8. To issue or enter such order or determination as may be neces-  
45 sary to effectuate this Act. If a condition of air pollution, as defined  
46 herein, is found to exist, such order may require the taking of such  
47 action as is indicated by the circumstances to cause the abatement or  
48 control of such condition.

49 a. In making orders and determinations, the commission shall take  
50 into consideration all the facts and circumstances bearing upon the  
51 reasonableness of the emissions involved, including, but not limited  
52 to: the character and degree of injury to, or interference with, the  
53 protection of the health and the physical property of the public; the  
54 practicability of reducing or limiting the emissions from such air  
55 pollution source; and the suitability or unsuitability of the air pol-  
56 lution sources to the area in which located.

57 b. Any such order or determination may include such advisory rec-  
58 ommendation as is deemed appropriate for the control of emissions  
59 from any air contaminant source and the reduction of the emission  
60 of air contaminants.

61 9. Cause to be instituted, in the name of the state, in a court of  
62 competent jurisdiction, legal proceedings to compel compliance with  
63 any order or determination entered by the commission.

64 10. To classify air contaminant sources according to levels and  
65 types of emissions, and other characteristics which relate to air pol-  
66 lution, and may require, by rule and regulation, reporting for any  
67 such class or classes of information including location, size, and  
68 height of contaminant outlets, fuels used, the nature and the time  
69 periods of emissions, and such other information as is relevant to air  
70 pollution.

71 Classifications made pursuant to this paragraph may be for appli-  
72 cation to the state as a whole, or to any designated area of the state,  
73 and shall be made with special reference to effects on health, eco-  
74 nomic, and social factors, and physical effects on property.

75 11. To require, by rules and regulations promulgated hereunder,  
76 notice of the construction or the installation of any equipment which  
77 may cause or contribute to air pollution as defined herein; and the  
78 submission to the department of plans and specifications, or such  
79 other information as is deemed necessary, for installation of equip-  
80 ment from which air contaminants may be emitted to the atmosphere  
81 and related control equipment.

82 Such standards, rules, or regulations shall not specify any par-  
83 ticular method to be used to reduce undesirable levels of emissions,  
84 nor type, design, or method of installation of any equipment to be  
85 used to reduce said levels of emissions, nor the type, design, or  
86 method of installation or type of construction of any manufacturing  
87 processes or kinds of equipment, nor specify the kind or composition  
88 of fuels permitted to be sold, stored, or used.

89 Nothing herein shall prevent the commission from giving technical  
90 advice pertaining to the construction or installation of any equipment  
91 or any other recommendation.

92 The order of determination of the commission may include such  
93 advisory recommendation as the commission may deem appropriate  
94 for the control of emissions from any air-contaminant source and the  
95 reduction of the emission of air contaminants.

96 12. Review and evaluate local air pollution control programs con-  
97 ducted by political subdivisions of the state with respect to whether  
98 such programs are not inconsistent with the provisions and purposes  
99 of this Act, and any rules and regulations promulgated thereunder.

100 13. Represent the state in any and all matters pertaining to plans,  
101 procedures, negotiations, and agreements for interstate compacts re-  
102 lating to the control of air pollution.

103 14. Advise, consult, and cooperate with other agencies of the state,  
104 political subdivisions, industries, other states, interstate or interlocal  
105 agencies, the federal government, and with affected groups in the  
106 control of air contamination sources within the state.

107 15. Encourage voluntary cooperation by persons or other affected  
108 groups in restoring and preserving a reasonable quality of air within  
109 the state.

110 16. Encourage political subdivisions to handle air pollution prob-  
111 lems within their respective jurisdictions to the greatest extent pos-  
112 sible.

113 17. Provide technical assistance to political subdivisions request-  
114 ing such aid for the furtherance of air pollution control.

115 18. Collect and disseminate information, and conduct educational

116 and training programs, relating to air pollution and its abatement  
117 prevention, and control.

1 SEC. 5. The department shall:

2 1. Provide to the commission such facilities and services as may be  
3 needed in conducting the activities specified herein.

4 2. Publish and administer the rules, regulations, and standards  
5 promulgated hereunder. The department shall furnish a copy of such  
6 rules, regulations, or standards adopted hereunder to any citizen  
7 upon request.

8 3. Provide such technical, scientific, and other services as may be  
9 required for the purpose of effectuating the provisions of this Act  
10 from funds appropriated and available for the purposes of this Act.

11 4. Conduct such correspondence and related activities in the in-  
12 terim between meetings of the commission, make or arrange for such  
13 inspections and investigations, and assemble or prepare such data  
14 and reports as the commission may request.

15 5. Conduct investigations of complaints received directly or re-  
16 ferred by the commission, or such other investigations as are deemed  
17 necessary to effectuate the provisions of this Act; and participate, on  
18 behalf of the state, in hearings before the commission.

19 6. Enter at all reasonable times in and upon any private or public  
20 property except private dwellings for the purpose of investigating an  
21 actual or possible source of air pollution, or of ascertaining the state  
22 of compliance with this Act or rules and regulations promulgated  
23 hereunder.

24 a. No person shall refuse entry or access to any authorized repre-  
25 sentative of the department who requests entry for the purpose of an  
26 investigation, and who presents appropriate credentials; nor shall  
27 any person obstruct, hamper, or interfere with any such investiga-  
28 tion.

29 b. If requested, the owner or operator of the premises shall receive  
30 a report setting forth levels of emissions and any other facts found  
31 which relate to compliance status.

32 7. Grant, modify, or deny permits, under the direction of the com-  
33 mission, for the installation of new equipment capable of emitting air  
34 contaminants to produce air pollution as defined herein, and for re-  
35 lated control equipment, subject to pertinent rules and regulations  
36 promulgated hereunder. The department shall furnish necessary  
37 forms to be executed in making application for such permits.

38 a. No equipment which may cause or contribute to air pollution as  
39 defined herein, or which is intended primarily to prevent or to con-  
40 trol the emission of air contaminants, shall be installed, altered in  
41 such a way that it significantly affects operational efficiency, or placed  
42 in use unless a permit has been issued for such equipment.

43 b. The condition of expected performance must be reasonably de-  
44 tailed in the permit unless it is agreed between the commission and  
45 the permit holder that a condition of development and adjustment  
46 exists.

47 c. Upon denial of such a permit, the person applying for such per-  
48 mit shall be notified of such denial and informed of the reason or  
49 reasons therefor, and such person shall be entitled to a hearing before

50 the commission in accordance with section four (4), subsection seven  
51 (7) of this Act.

52 8. Determine by field studies and sampling the quality of atmos-  
53 phere and the degree of air pollution in this state and the several  
54 parts hereof.

55 9. Conduct and encourage studies, investigations, and research re-  
56 lating to air pollution and its causes, effects, abatement, control, and  
57 prevention.

58 10. Accept, receive, and administer grants or other funds or gifts  
59 from public or private agencies, including the federal government,  
60 for the purpose of conducting any of the functions of this Act.

61 11. Employ and compensate, within appropriations available pur-  
62 suant to the Iowa merit system, and prescribe the duties of such con-  
63 sultants and technical assistants on a full or part-time basis as may  
64 be necessary to carry out the provisions of this Act.

1 SEC. 6. Nothing contained in this Act shall be deemed to grant to  
2 the commission or the department any authority or jurisdiction with  
3 respect to air pollution existing solely within residences; or solely  
4 within commercial and industrial plants, works, or shops under the  
5 jurisdiction of chapter ninety-one (91) of the Code; or to affect the  
6 relations between employers and employees with respect to, or aris-  
7 ing out of, any condition of air pollution.

1 SEC. 7. The commission and the department may request and re-  
2 ceive assistance from any other agency, department, or educational  
3 institution of the state, or political subdivision thereof, when it is  
4 deemed necessary or beneficial by the commission or the department  
5 in effectuating the purposes of this Act. The department may reim-  
6 burse such agencies for special expense resulting from expenditures  
7 not normally a part of the operating expenses of any such agency.

1 SEC. 8. Information received by the commission or the depart-  
2 ment through filed reports, inspections, or as otherwise authorized  
3 under this Act concerning trade secrets, secret industrial processes,  
4 or other privileged communications shall not be disclosed or opened  
5 to public inspection, except as may be necessary in a proceeding con-  
6 cerning a violation of the Act or of any rules and regulations promul-  
7 gated thereunder, or as otherwise authorized or ordered by appro-  
8 priate court action or proceedings. Nothing herein shall be construed  
9 to prevent the commission or the department from compiling or pub-  
10 lishing analyses or summaries relating to the general condition of the  
11 atmosphere; provided that such analyses or summaries do not reveal  
12 any information otherwise confidential under this section.

1 SEC. 9. Whenever the commission has evidence that a violation of  
2 any provision of this Act, or rule, regulation, or standard promul-  
3 gated hereunder has occurred, it may cause written notice to be  
4 served upon the alleged violator or violators by certified mail. The  
5 notice shall specify the provision of this Act, rule, regulation, or  
6 standard alleged to be violated, and the facts alleged to constitute a  
7 violation thereof, and may include an order that necessary corrective  
8 action be taken within a reasonable time.

9 1. Any such order shall become final unless, no later than thirty  
10 (30) days after the date the notice and order are received, the person  
11 or persons named therein request a hearing before the commission.  
12 In lieu of an order, the commission may require that the alleged vio-  
13 lator or violators appear before the commission for a hearing at a  
14 time and place specified in the notice and answer the charges. Such  
15 hearings shall be held at such place as the commission shall deter-  
16 mine.

17 2. The alleged violator or violators may file a written answer to a  
18 notice of violation or order and may appear in person at such hearing  
19 or by representative, with or without counsel, and may make oral  
20 argument, offer testimony, and cross examine witnesses. The testi-  
21 mony taken at the hearing shall be under oath and recorded, and  
22 copies of the transcript shall be furnished to the alleged violator or  
23 violators upon his request and at his expense.

24 3. If after a hearing held pursuant to subsection one (1) of this  
25 section, the commission finds that a violation or violations have oc-  
26 curred, it shall affirm or modify its order previously issued, or issue  
27 an appropriate order or orders for the prevention, abatement, or con-  
28 trol of the emissions or air pollution involved. If after hearing on an  
29 order, the commission finds that no violation is occurring, it shall  
30 rescind the order. Any order issued as part of a notice or after hear-  
31 ing shall prescribe the date or dates by which violation or violations  
32 shall cease and may prescribe time tables for necessary action in pre-  
33 venting, abating, or controlling the emissions or air pollution.

34 4. Nothing in this Act shall prevent the commission and the depart-  
35 ment from making efforts to obtain voluntary compliance through  
36 warning, conference, or any other appropriate means.

37 5. If the commission, its technical secretary, or the commissioner  
38 has evidence that any person is causing or contributing to air pollu-  
39 tion and that such pollution creates an emergency requiring immedi-  
40 ate action to protect the public health and safety, or property, either  
41 may, without notice or hearing, issue an emergency order reciting  
42 that an emergency exists and requiring such person or persons to  
43 reduce or discontinue immediately the emission of air contaminants.  
44 Such order shall be effective immediately. Upon issuance of such  
45 order the commission or its authorized representative shall fix a place  
46 and time of hearing, such hearing to be held before the commission  
47 not later than twenty-four (24) hours thereafter. Not more than  
48 twenty-four (24) hours from the commencement of such hearing, the  
49 commission shall affirm, modify, or set aside such order.

1 SEC. 10. An appeal may be taken by any aggrieved party from  
2 any order issued or entered as provided in section nine (9) to the  
3 district court of the county in which the alleged offense was commit-  
4 ted. Notice of appeal from an order shall be served upon the commis-  
5 sion or the technical secretary by certified mail or by personal service.  
6 Failure to serve such notice of appeal within thirty (30) days after  
7 receipt of the order shall operate as a waiver of the right to appeal.  
8 An order by the commission shall not be stayed by an appeal except  
9 by order of the district court after hearing for good cause shown by  
10 the aggrieved party. The hearing on appeal shall be tried as a suit  
11 in equity and shall be de novo. The court may receive additional tes-



12 timony and evidence and may affirm, modify, or reverse the order of  
13 the commission.

1 SEC. 11. If measures to prevent or correct air pollution which is  
2 in violation of any rule or regulation promulgated by the commission  
3 are not taken in accordance with an order of the commission, or if  
4 the commission or its authorized representative has evidence that an  
5 emergency exists by reason of air pollution, requiring immediate  
6 action to protect the public health or property, the attorney general  
7 shall, upon receiving a request from the commission or its authorized  
8 representative, bring an action in the name of the state for an injunc-  
9 tion to prevent any further or continued violation of such rule or  
10 regulation or such order. In an action for a temporary injunction  
11 brought pursuant to this section, any previous findings of the com-  
12 mission, after due notice and hearing, shall be prima facie evidence  
13 of the fact or facts found therein.

1 SEC. 12. In all proceedings with respect to any alleged violation  
2 of the provisions of this Act or any rule or regulation promulgated  
3 hereunder, the burden of proof shall be upon the commission except  
4 in an action for a temporary injunction as provided for in Section  
5 eleven (11) of this Act.

1 SEC. 13. Any person who owns or is in control of any plant,  
2 building, structure, process, or equipment may apply for a variance  
3 from rules, regulations, or standards governing the quality, nature,  
4 duration, or extent of emissions by filing an application with the  
5 technical secretary. The application shall be accompanied by such  
6 information and data as the commission may require.

7 1. The department shall promptly investigate such application and  
8 make a recommendation to the commission as to the disposition there-  
9 of. The commission may grant such variance if it finds that:

10 a. The emissions occurring or proposed to occur do not endanger  
11 or tend to endanger human health or safety or property; and

12 b. Compliance with the rules, regulations, or standards from which  
13 variance is sought would produce serious hardship without equal or  
14 greater benefits to the public.

15 2. A hearing shall be held if the commission in its discretion con-  
16 cludes that a hearing will be advisable. The person applying for a  
17 variance may request a review hearing before the commission if his  
18 application is denied.

19 3. In determining under what conditions and to what extent a vari-  
20 ance from this Act or rule or regulation hereunder may be granted,  
21 the commission shall give due recognition to the progress which the  
22 person requesting such variance shall have made in eliminating or  
23 preventing air pollution. In such a case, the commission shall con-  
24 sider the reasonableness of granting a variance, conditioned upon  
25 such person effecting a partial abatement of the particular air pollu-  
26 tion over a period of time which it shall consider reasonable under  
27 the circumstances, or the commission in conformity with the intent  
28 and purpose of this Act to protect health and property, may prescribe  
29 other and different requirements with which the person who receives  
30 such variance shall comply.

31 4. Any variance granted shall be granted for such period of time,  
32 not exceeding one (1) year, as shall be specified by the commission at  
33 the time of the grant of such variance. Any variance may be granted  
34 by the commission upon the condition that the person who received it  
35 shall make such periodic reports to the commission as the commission  
36 shall specify as to the progress which such person shall have made  
37 toward compliance with any rule or regulation as to which a variance  
38 has been granted. Such variance may be extended from year to year  
39 by affirmative action of the commission.

1 SEC. 14. 1. Any political subdivision is hereby authorized, in ad-  
2 dition to any other power vested by law, to conduct an air pollution  
3 control program within the boundaries of its jurisdiction, and to con-  
4 duct air pollution control programs jointly with other political sub-  
5 divisions of this state or of other states; provided that every joint  
6 program shall be established and administered in accordance with the  
7 provisions of chapter twenty-eight E (28E) of the Code. In conduct-  
8 ing such programs, political subdivisions shall have the power and  
9 the authority to adopt and enforce rules, regulations, or standards  
10 for the purpose of securing and maintaining adequate air quality  
11 within the respective jurisdictions.

12 2. If the board of supervisors in any county establishes an air-  
13 pollution program and has obtained a certificate of acceptance, the  
14 agency implementing the program shall have jurisdiction over and  
15 may regulate air pollution within the county including any incorpo-  
16 rated areas therein unless and until such incorporated areas shall  
17 obtain a certificate of acceptance as a joint or separate agency.

1 SEC. 15. When an air pollution control program conducted by a  
2 political subdivision, or combination of two (2) or more political sub-  
3 divisions, is deemed upon review in accordance with section four (4),  
4 subsection twelve (12), of this Act to be consistent with the provi-  
5 sions of this Act or rules and regulations promulgated thereunder,  
6 the commission shall accept such program in lieu of administration  
7 of the regulatory provisions of this Act by the state within the juris-  
8 diction involved. Nothing contained herein shall be construed to limit  
9 the power of the commission to take emergency action under the pro-  
10 visions of section nine (9), subsection five (5), of this Act.

11 1. In evaluating such a local air pollution control program, con-  
12 sideration shall be given to whether such program provides for the  
13 following:

14 a. Ordinances, rules, regulations, or standards establishing re-  
15 quirements consistent with, or more strict than, those imposed by this  
16 Act or rules, regulations, and standards promulgated thereunder;

17 b. Enforcement of such requirements by appropriate administra-  
18 tive and judicial process; and

19 c. Administrative organization, staff, financial, and other resources  
20 necessary to carry out its program effectively and efficiently.

21 2. When a local air pollution control program has been deemed to  
22 be consistent with the provisions of this Act, the commission shall  
23 issue a certificate of acceptance to the appropriate local agency.

24 a. Any political subdivision desiring a certificate of acceptance

25 shall make application for such certificate to the technical secretary  
26 on such forms as the commission may prescribe.

27 b. The technical secretary shall investigate promptly such applica-  
28 tion, and make a recommendation to the commission as to the disposi-  
29 tion thereof. Upon receiving an affirmative recommendation from the  
30 technical secretary, the commission may grant such certificate with-  
31 out a hearing. If the recommendation is against the granting of a  
32 certificate of acceptance, or if the commission in its discretion con-  
33 cludes that a hearing is advisable, the political subdivision shall be  
34 entitled to a hearing as provided in section nine (9) of this Act on  
35 the questions as to whether the local program is substantially consist-  
36 ent with the provisions of this Act or rules and regulations promul-  
37 gated thereunder, and whether the local ordinance or regulation is  
38 being enforced. The burden of proof thereof shall be upon the politi-  
39 cal subdivision.

40 c. If the commission shall determine at any time that a local pro-  
41 gram is being conducted by a political subdivision holding a certifi-  
42 cate of acceptance in a manner inconsistent with the substantive pro-  
43 visions of this Act or rules and regulations promulgated thereunder,  
44 the commission shall provide to the political subdivision a notice re-  
45 citing the deviations from the standards and the corrective measures  
46 to be completed within a reasonable period of time. If the commission  
47 finds, after such period of time, that the political subdivision has  
48 failed to take the specified corrective action, the commission shall  
49 suspend the certificate of acceptance and shall administer the regu-  
50 latory provisions of this Act in such political subdivision until such  
51 standards are met. Upon receipt of evidence that is deemed to show  
52 correction of the cause of such suspension, the commission shall re-  
53 instate a suspended certificate of acceptance, and the political sub-  
54 division shall resume the regulatory functions involved upon receipt  
55 of appropriate notice from the commission. In cases where the cer-  
56 tificate of acceptance is suspended, the political subdivision shall be  
57 entitled to a hearing as specified in section nine (9) of this Act.

58 d. Nothing in this Act shall be construed to supersede the jurisdic-  
59 tion of any local air pollution control program in operation on the  
60 effective date of this Act; provided that within two (2) years from  
61 such date any such program shall meet all requirements of this Act  
62 for a local air pollution control program and an application for a  
63 certificate of acceptance is submitted to the technical secretary.

1 SEC. 16. In the event the commission shall determine that any  
2 final order or determination made by it is being violated, the commis-  
3 sion may cause to have instituted a civil action in any court of com-  
4 petent jurisdiction for injunctive relief to prevent any further viola-  
5 tion of such final order or determination or for the assessment of such  
6 penalty not to exceed two hundred (200) dollars per day for each  
7 day such violation continues as the court may deem proper, or both.  
8 It shall be the duty of the attorney general to bring such actions at  
9 the request of the commission in the name of the people of the state  
10 of Iowa.

1 SEC. 17. Upon the failure of the technical secretary to take action  
2 within sixty (60) days after an application for installation permit or

3 variance, or upon the failure of the commission to enter a final order  
4 or determination within sixty (60) days after the final argument in  
5 any hearing under section nine (9) of this Act, the person seeking  
6 any of such actions shall be entitled to treat for all purposes such  
7 failure to act as a grant of the requested permit or variance, or of a  
8 finding favorable to the respondent in any hearing under section nine  
9 (9) of this Act, as the case may be.

1 SEC. 18. No fees shall be charged by the technical secretary or  
2 the commission for the performance of any of their respective func-  
3 tions under this Act.

1 SEC. 19. The powers, duties, and functions vested in the commis-  
2 sion under the provisions of this Act shall not be construed to affect  
3 in any manner the powers, duties, and functions vested in the depart-  
4 ment under any other provisions of law.

1 SEC. 20. Section two hundred sixty-three point eight (263.8),  
2 Code 1966, is hereby amended by adding the following:

3 "The laboratory also shall perform all laboratory examinations and  
4 studies which may be requested by the state department of health  
5 and the air pollution control commission. The laboratory is author-  
6 ized to perform such laboratory determinations relating to air con-  
7 taminants as may be requested by political subdivisions or other per-  
8 sons, and the laboratory also is hereby authorized to charge political  
9 subdivisions or other persons fees covering transportation of samples  
10 and the actual costs of examinations performed upon their request."

1 SEC. 21. There is hereby appropriated to the department from  
2 the general fund of the state the sum of thirty-seven thousand five  
3 hundred (37,500) dollars for each year of the ensuing biennium for  
4 the purposes specified in this Act.

1 SEC. 22. There is hereby appropriated to the state bacteriological  
2 laboratory from the general fund of the state the sum of thirty-three  
3 thousand five hundred (33,500) dollars for each year of the ensuing  
4 biennium for the purposes specified in this Act.

Approved June 22, 1967.

## CHAPTER 163

### LOCAL BOARDS OF HEALTH

#### S. F. 342

AN ACT relating to the organization, jurisdiction, powers and duties of county, city,  
and district boards of health and permits local funding therefor.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Chapters one hundred thirty-seven (137) and one hun-  
2 dred thirty-eight (138), Code 1966, are hereby repealed.

1 SEC. 2. This Act may be cited as the "Local Health Act."